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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,763	07/10/2003	Maurice J. Pigott	432 P 190	2300
7590	11/08/2005		EXAMINER	
Roger H. Stein Wallenstein & Wagner, Ltd. 53rd Floor 311 South Wacker Driver Chicago, IL 60606-6630			LUONG, SHIAN TINH NHAN	
			ART UNIT	PAPER NUMBER
			3728	
			DATE MAILED: 11/08/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/616,763	PIGOTT ET AL.
	Examiner	Art Unit
	Shian T. Luong	3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12, 15 and 16 is/are rejected.
- 7) Claim(s) 13 and 14 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/14/03, 12/20/03, 3/4/05
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_.

***Claim Rejections - 35 USC § 112***

1. Claims 2 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 2 and 5 are indefinite because if the first and second locking component are both posts, then they cannot cooperate with one another for stacking. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Apps (US 5,060,819). Apps discloses a modular tray comprising a first end, an opposed second end, a first side, an opposed second side, each side having an upper surface and a lower surface, a first interlocking component 100 associated with the upper surface of each side and a second interlocking component 112 associated with the lower surface of each side, the first interlocking components being positioned such that the first interlocking component of a first tray mates with the second interlocking component of an adjacent second tray placed upon the first tray only when the first ends of the two trays are aligned with one above the other. The first interlocking component is at least one post projecting outwardly or one indentation projecting inwardly from each of the sides and the second interlocking component is at least one indentation projecting

inwardly or one post projecting outwardly from each of the sides, each post cooperating with each indentation. There is more than one post projecting upwardly from each of the sides of the tray and there is more than one indentation projecting upwardly in each of the sides.

4. Claims 1-7,15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Cheeseman (US 6,394,274). Cheeseman discloses a modular tray comprising a first end, an opposed second end, a first side B, an opposed second side D, each side having an upper surface and a lower surface, a first interlocking component 64a-d associated with the upper surface of each side and a second interlocking component 54a-d with grooves 62-6d associated with the lower surface of each side, the first interlocking components being positioned such that the first interlocking component of a first tray mates with the second interlocking component of an adjacent second tray placed upon the first tray only when the first ends of the two trays are aligned with one above the other. The first interlocking component is at least one post projecting outwardly or one indentation projecting inwardly from each of the sides and the second interlocking component is at least one indentation projecting inwardly or one post projecting outwardly from each of the sides, each post cooperating with each indentation. There is more than one post projecting upwardly from each of the sides of the tray and there is more than one indentation projecting upwardly in each of the sides. The tray has an imaginary median disposed between the ends forming two halves of the tray and the posts and indentations on one half of the tray are spaced from the median differently than the posts and indentations on the other half of the tray such that when the second tray is stacked upon the first tray, the posts of the first tray align and cooperate with the indentations of the second tray only when the first end of the second tray and the first end of the first tray are aligned one above the other and coplanar. Each indentation is

aligned vertically with a post. A plurality of parallel transverse ribs 70 formed in the bottom surface. A pocket is formed along wall A or C.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cheeseman.

Although not every indentation and post are trapezoidal in shape, it would have been obvious to provide any variety of shapes and sizes for the interlocking components as long as they engage with one another.

7. Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheeseman in view of French patent 1167061 and Reynolds. Cheeseman does not show partitions or longitudinal walls. But French patent shows a stackable tray with at least one longitudinal wall that is higher than other walls. The stop is the wall surface. Reynolds also shows a plurality of channels within a holding carrier. It would have been obvious in view of the French patent and Reynolds to provide any number of channels or partitions to separate each row from another.

***Allowable Subject Matter***

8. Claims 13-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim

and any intervening claims.

***Conclusion***

9. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Erica Miller at (571) 272-4370.

For applicant's convenience, the official FAX number is **571-273-8300**. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Luong of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Shian Luong whose telephone number is (571) 272-4557. The examiner can normally be reached on M-H from 7:00am to 4:00pm EST.

STL  
September 30, 2005

  
Primary Examiner  
Shian Luong  
Art Unit 3728